

**REMARKS**

In the Office Action dated November 12, 2008, claims 15-36 are pending and rejected. Reconsideration is requested at least for the reasons discussed hereinbelow.

The Examiner noted that the listing of references in the specification is not a proper information disclosure statement. Applicant submits that these references were cited in a proper Information Disclosure Statement that was mailed with a Certificate of Mailing on November 11, 2008. Thus, it is apparent that the IDS, although filed, had not been received by the Examiner when preparing this Office Action. Consideration of the references is requested.

Objection is made to the disclosure for various informalities. A Substitute Specification is enclosed wherein references to claims have been replaced with original claim language and appropriate Section Headings have been added. Also, reference to figures is made consistent. No new matter is added. A comparison document showing the changes from the original specification also is enclosed. The Abstract also was amended as shown in the comparison document. It is believed that the Substitute Specification corrects the informalities.

Objection is made to the Drawings because the “chambers of water” is not shown. Applicant respectfully submits that the term “chambers of water” was taken out of its context and misunderstood. Claim 27 defines a size-variable element comprising “chambers of water- and airtight material”, and said size variable element is indicated with referenced numbers 1 and 100 (see original claim 9). It is understood that claim 27 means “chambers of watertight and airtight material” (cf. p. 7, 3<sup>rd</sup> sentence of 2<sup>nd</sup> paragraph; original claim 9). Claim 27 has been amended above to correct the typographical error made when reformatting the original claims and to be consistent with the disclosure. Thus, the feature is shown in the drawings and no correction to the drawings is required.

Claims 25-27 are rejected under 35 U.S.C. §112, first paragraph. Applicant submits that the above amendment correcting dependencies of the claims renders this rejection moot. Claim 25 as

amended now depends correctly from claim 21 defining a support strap. As to the feature “chambers of water” in claim 27, Applicant refers to the discussion above regarding “chambers of watertight and airtight material.”

Claims 17, 18, 20, 25, 26, 28, 29 and 31 are rejected under 35 U.S.C. §112, second paragraph. The Examiner contends that the use of the term “Velcro” makes the claims indefinite. Applicant strongly disagrees. Although the term “Velcro” has been used as a trademark, the term also has become a generic term for a type of reclosable means or fastener consisting of two strips of nylon fabric, one looped and one burred, which adhere when pressed together. See enclosed page 1743 from the “Oxford Dictionary and Thesaurus,” Oxford University Press, ISBN 0-19-860171-9. It is respectfully submitted that, in the context of the present invention and disclosure and in view of the term being generic (much like cellophane tape), one skilled in the art would readily understand the term “Velcro” as used herein.

3.1       Claims 15, 16 and 34-36 are rejected under 35 U.S.C. §102(b) over Jones (US 3,931,657). Jones *fails to teach or suggest a first releasable closure means* according to present claim 15, whereby the variable body size adjustment can be set. The zipper-type closure fastener 24 (cf. Fig. 1, col. 2, 1. 27-29) may be considered a second releasable closure means that can be released without altering the set body size. However, Applicant strongly disagrees that the means indicated by Jones reference number 23 (cf. Fig. 1) represents a first releasable closure means according to claim 15 because reference number 23 **indicates cords which merely secure front panels 11 to one of the back panels 12 at its outer longitudinal edge** (cf. col. 2, 1. 23-27; Figs. 1-3 and 5). Such a cord does not represent a releasable closure means as set forth in claim 15, because neither the description nor the Figures disclose that cord 23 would allow one to set a variable body size adjustment.

Furthermore, the life vest of Jones **comprises inflatable bladders 32** (cf. claim 1: col. 4, 1. 48-58; col. 2, 1. 61 to col. 3, 1.3), while the present claims recite buoyancy elements different from

inflatable bladders. In the present claims, the buoyancy element comprises filling material with buoyant granulates, flocks, beads or material combinations.

Thus, it is not seen how the presently claimed invention is anticipated by Jones. Nor is it seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Jones.

Claims 15, 16, 21-24 and 32-36 are rejected under 35 U.S.C. §102(b) over Kea (US 5,603,648). Kea discloses an outdoor survival garment comprising a solid flotation material layer 32 and an **inflate bladder** 24 supplementing flotation properties (cf. col. 3, 1. 26-33 and 1. 51-57) as buoyancy elements. The inflate bladder is filled with gas in case water is sensed by water sensing device 30 (cf. col. 3, 1. 51-57), in order to provide supplemental buoyancy. In contrast, the presently claimed invention, as set forth in claim 15, recites that the “buoyancy element comprises filling material with buoyant granulates, flocks, beads or material combinations”. Thus, the inflate bladder disclosed in Kea fails to teach or suggest a buoyancy element as presently claimed.

Thus, it is not seen how the presently claimed invention is anticipated by Kea. Nor is it seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Kea.

Claims 17, 18, 28 and 29 are rejected under 35 U.S.C. §103(a) over Kea. These dependent claims also are patentable over Kea for at least the reasons discussed above. Further, Kea discloses an “outdoor survival garment” which is **not a swimming aid**. The swimming aid device according to the present invention provides constant floatability and is ideal for helping children learn to swim (cf. p. 4, 3<sup>rd</sup> para.) and for adults for safety in the water, and also in connection with various sporting and leisure activities (cf. p. 4, 5<sup>th</sup> para.). In contrast to the presently claimed swimming aid, the outdoor survival garment described by Kea provides appropriate floatability only in case of emergency, that is, when the water sensing device 30 signals electric unit 31 to release a mechanism to inflate inflatable bladder 24 (cf. col. 3, 1. 51-57). Furthermore, such an outdoor survival garment

**will not provide convenient wearing comfort** due to the plurality of incorporated means (like heating element layer 25, nutriment layer 26, gas receptacle 22 (cf. col 3, 1. 28-36), illuminate fiber optic container 39 comprising light emitting diode leads 37 and rechargeable battery 610 (cf. col 4, 1. 4-7 and 54). Much less will such a garment be suitable for learning to swim or for other sportive activities.

Thus, it is not seen how the present invention is anticipated by Kea. Nor is it seen how the present invention would have been obvious to one of ordinary skill in the art in view of Kea.

Claims 19-21, 30 and 31 are rejected under 35 U.S.C. §103(a) over Jones in view of Samano (US 5,651,711). The Examiner admits that Jones at least fails to show an adjustment for the arm opening/ shoulder area. Samano is cited to make up for this deficiency. However, Samano fails to amke up for the deficiencies of Jones. Indeed, Samano also fails, for example, any buoyancy elements, particularly buoyancy elements comprising filling material with buoyant granulates, flocks, beads or material combinations.

Further, Applicant submits that one of ordinary skill in the art would not combine the teachings of Jones with Samano. Samano's flag vest is not a life vest flotation device. Instead, Samano's flag vest is designed to carry a signal flag on a resilient pole attached to the vest. Samano **does not disclose a swimming aid device, but a strap-construction** (straps 2 and 3 secured by clamps 11 and equipped with adjustment buckles 10, signal flag 5 attached to strap construction b means of flexible pole 4) which is **worn over any type of commercial flotation vest 1** (strap-construction and vest: cf. col. 1, 1. 66 to col. 3, 1. 12 and Fig. 1; flexible pole: cf. col. 3, 1 13-19 and Fig. 2; flag: cf. col. 3, 1. 65-67 and Figs. 1 and 3). In alternative embodiments, flag 5 providing signal function may also be attached to a vest or jack **which is worn over** the above-mentioned commercially available swimming vest (cf. col. 4, 1. 17-19), however, this embodiment is not further described.

If one of ordinary skill in the art were to combine the teachings of Samano with Jones, the result apparently would be to add a flexible flag pole to the Jones device. However, that would not provide the swimming aid device of the present invention. As aforesaid, Jones **does not disclose a first, releasable closure means**, as set forth in the present claims. Rather, Jones discloses a vest, which provides, among other things, fit" by means of an inflate bladder (cf. col. 1, l. 29-34; description of inflate bladder 32: col. 2, l. ;61 to col. 3, 1.3). However, this concept of Jones strongly differs from the swimming aid device according to presently claimed invention, which provides wearing comfort (cf. p. 5, l. 2-5) and safety for the user (cf. p. 2, 2<sup>nd</sup> and 3<sup>rd</sup> sentence of 4<sup>th</sup> para.) by first, releasable closure means without the need of inflate bladder(s).

In view of the amendment and discussion above, Applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

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Respectfully submitted,

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Attachments

## vegetal | velvet

butter. vegetable ivory see IVORY. vegetable marrow see MARROW 1. vegetable oyster = SALSIFY. vegetable parchment see PARCHMENT 2. vegetable spaghetti 1 a variety of marrow with flesh resembling spaghetti. 2 its flesh. vegetable sponge = LOOFAH. vegetable tallow see TALLOW. vegetable wax an exudation of certain plants such as sumac. [ME f. OF *vegetable* or LL *vegetabilis* *animating* (as *VEGETATE*)]

**vegetal** /vējāt'l/ adj. 1 of or having the nature of plants (*vegetal growth*). 2 vegetative. [med.L *vegetalis* f. L *vegetare* *animate*]

**vegetarian** /vējātāriən/ n. & adj. • n. a person who abstains from animal food, esp. that from slaughtered animals, though often not eggs and dairy products. • adj. excluding animal food, esp. meat (*a vegetarian diet*). cc *vegetarianism* n. [irreg. f. *VEGETABLE* + *-ARIAN*]

**vegetate** /vējātāyt/ v.intr. 1 live an uneventful or monotonous life. 2 grow as plants do; fulfil vegetal functions. [L *vegetare* *animate* f. *vegetus* f. *vegērē* *be active*] • 3 see STAGNATE.

**vegetation** /vējātāsh'n/ n. 1 plants collectively; plant life (*luxuriant vegetation; no sign of vegetation*). 2 the process of vegetating. cc *vegetational* adj. [med.L *vegetatio* *growth* (as *VEGETATE*)]

**vegetative** /vējātātiv/ adj. 1 concerned with growth and development as distinct from sexual reproduction. 2 of or relating to vegetation or plant life. cc *vegetatively* adv. *vegetativeness* n. [ME f. OF *vegetatif* -ive or med.L *vegetatius* (as *VEGETATE*)]

**vegie** /vējē/ n. (also *veggie*) colloq. a vegetarian. [abbr.]

**vehement** /vēhēmənt/ adj. showing or caused by strong feeling; forceful, ardent (*a vehement protest; vehement desire*). cc *vehement* n. *vehemently* adv. [ME f. F *véhément* or L *vehemens* -antis, perh. f. *vemens* (unrecorded) deprived of mind, assoc. with *vehere* carry]

• see IMPASSIONED. cc *vehement* see FERVOUR 1.

• *vehemently* see warmly (WARM).

**vehicle** /vēē-ik'l/ n. 1 any conveyance for transporting people, goods, etc., esp. on land. 2 a medium for thought, feeling, or action (*the stage is the best vehicle for their talents*). 3 a liquid etc. as a medium for suspending pigments, drugs, etc. 4 the literal meaning of a word or words used metaphorically (opp. TENOR 6). cc *vehicular* /vēhikyoołər/ adj. [F *véhicule* or L *vehiculum* f. *vehere* carry]

• 1 conveyance. 2 medium, means, channel, mechanism, carrier, conduit, agency, instrument, agent, tool.

**veil** /vayl/ n. & v. • n. 1 a piece of usu. more or less transparent fabric attached to a woman's hat etc., esp. to conceal the face or protect against the sun, dust, etc. 2 a piece of linen etc. as part of a nun's head-dress, resting on the head and shoulders. 3 a curtain, esp. that separating the sanctuary in the Jewish Temple. 4 a disguise; a pretext; a thing that conceals (*under the veil of friendship; a veil of mystery*). 5 Photog. slight fogging. 6 huskiness of the voice. 7 = VELUM. • v.tr. 1 cover with a veil. 2 (esp. as *veiled* adj.) partly conceal (*veiled threats*). • beyond the veil in the unknown state of life after death. draw a veil over avoid discussing or calling attention to. take the veil become a nun. cc *veilless* adj. [ME f. AF *veil*(s), OF *voile*(s) f. L *vela* f. of VELUM]

• 1 covering, yashmak. 4 covering, cover, screen, camouflage, cloak, mantle, curtain, cloud, mask, shroud; disguise, pretext. • v. cover, conceal, hide, camouflage, cloak, mask, disguise, shroud, shield, obscure, literary enshroud; (*veiled*) concealed, hidden, masked, obscure, unrevealed, covert, disguised, secret, sub rosa, subtle.

**veiling** /vayling/ n. light fabric used for veils etc.

**vein** /vayn/ n. & v. • n. 1 any of the tubes by which blood is conveyed to the heart (cf. ARTERY). b (in general use) any blood-vein (has royal blood in his veins). 2 a nervure of an insect's wing. 3 a slender bundle of tissue forming a rib in the framework of a leaf. 4 a streak or stripe of a different colour in wood, marble, cheese, etc. 5 a fissure in rock filled with ore or other deposited material. 6 a source of a

particular characteristic (*a rich vein of humour*). 7 a distinctive character or tendency; a cast of mind or disposition; a mood (*spoke in a sarcastic vein*). • v.tr. fill or cover with or as with veins. cc *veinless* n. *veinlet* n. *veinlike* adj. *veiny* adj. (*veinier, veiniest*). [ME f. OF *veine* f. L *vena*] • n. 1 blood-vessel; Anat. venule. 2, 3 nervure, rib.

4 streak, seam, stripe, thread, strand, line, Biol. & Geol. striation, stria. 5 seam, lode, stratum, course, deposit, bed, pocket. 6 thread, hint; suggestion, touch, trace, streak, line, strain. 7 tendency, inclination, proclivity; mood, spirit, tone, note, tenor, feeling, attitude, disposition, cast of mind, humour, temper, way, manner, course, fashion, style, mode, pattern.

**veining** /vēyning/ n. a pattern of streaks or veins.

**veinstone** /vēynstōn/ n. = GANGUE.

**vela** pl. of VELUM.

**velamen** /vēlāmən/ n. (pl. *velamina* /-mēnə/) an enveloping membrane esp. of an aerial root of an orchid. [L f. *velare* cover]

**velar** /vēlār/ adj. 1 of a veil or velum. 2 *Phonet.* (of a sound) pronounced with the back of the tongue near the soft palate. [L *velaris* f. *velum*; see VELUM]

**Velcro** /vēlkrō/ n. prop. a fastener for clothes etc. consisting of two strips of nylon fabric, one looped and one burred, which adhere when pressed together. cc *Velcroed* adj. [F *velours croché* hooked velvet]

**veld** /vēlt/ n. (also *veldt*) S.Afr. open country; grassland. [Afrik. f. Du., -FIELD]

**veldskoen** /fēltskōen, fēlsh-/ n. a strong suede or leather shoe or boot. [Afrik., = field-shoe]

**velata** /vēlātə/ n. (also *valeta*) a ballroom dance in triple time. [Sp., = weather-vane]

**velitation** /vēlītāsh'n/ n. archaic a slight skirmish or controversy. [L *velitatio* f. *velitari* skirmish f. *velēs* *velitis* light-armed skirmisher]

**vellety** /vēlēt-iti/ n. literary 1 a low degree of volition not conducive to action. 2 a slight wish or inclination. [med.L *velletas* f. L *velle* to wish]

**velum** /vēlōm/ n. 1 a fine parchment orig. from the skin of a calf. b a manuscript written on this. 2 smooth writing-paper imitating vellum. [ME f. OF *velin* (as *VELAL*)]

**velocimeter** /vēlōsīmītər/ n. an instrument for measuring velocity.

**velocipede** /vēlōsīped/ n. 1 hist. an early form of bicycle propelled by pressure from the rider's feet on the ground. 2 US a child's tricycle. cc *velocipedist* n. [F *vélocipède* f. L *velox* -o's swift + *pedis* foot]

**velocity** /vēlōsītē/ n. (pl. -ies) 1 the measure of the rate of movement of a usu. inanimate object in a given direction. 2 speed in a given direction. 3 (in general use) speed. cc *velocity of escape* = *escape velocity*. [F *vélocité* or L *velocitas* f. *velox* -o's swift]

• 3 speed, swiftness, rapidity, quickness, briskness, alacrity, pace, rate of speed, miles per hour, m.p.h., kilometres per hour, km/hr, archaic or literary celerity, post, or literary fleetness.

**velodrome** /vēlōdrōm/ n. a special place or building with a track for cycle-racing. [F *vélo* bicycle (as *VELOCITY*, -DROME)]

**velour** /vēlōor/ n. (also *velours*) 1 a plushlike woven fabric or felt. 2 archaic a hat of this felt. [F *velours* velvet f. OF *velour*, *velous* f. L *velutus* hairy f. *velus*; see VELVET]

**velouté** /vēlōtē/ n. a sauce made from a roux of butter and flour with white stock. [F, = velvety]

**velum** /vēlōm/ n. (pl. *vela* /-lə/) a membrane, membranous covering, or flap. [L, = sail, curtain, covering, veil]

**velutinous** /vēlōtīnəs/ adj. covered with soft fine hairs. [perh. f. It. *vellutino* f. *velluto* VELVET]

**velvet** /vēlēt/ n. & adj. • n. 1 a closely woven fabric of silk, cotton, etc., with a thick short pile on one side. 2 the furry skin on a deer's growing antler. 3 anything smooth and soft like velvet. • adj. of, like, or soft as velvet. cc *on (or in) velvet* in an advantageous or prosperous position. velvet